

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMES OBELKEVICH and  
DIANA OBELKEVICH

v.

SAFECO INSURANCE  
COMPANY OF ILLINOIS

:  
:  
:  
: **NO:**  
:  
:  
:

**NOTICE OF REMOVAL**

AND NOW, come the defendant, Safeco Insurance Company of Illinois, for the purpose only of removing this case to the United States District Court for the Middle District of Pennsylvania and respectfully aver as follows:

1. This is a civil action filed and now pending in the Court of Common Pleas of Lackawanna County, Pennsylvania at No: 2018-CV-147.
2. The action was initiated in the aforementioned court by the filing of a Writ of Summons. Plaintiffs did not file their Complaint until on or about May 11, 2018 which was served on defense counsel on or about May 15, 2018. A copy of the Complaint is attached hereto as Exhibit "A."
3. The averments made herein are true and correct with respect to the date and time upon which suit was commenced and the date upon which this notice is being filed.

4. This suit is of a civil nature and involves a controversy between citizens of different states. Plaintiffs are individuals who are now, and were at the time plaintiffs commenced this action, residents and citizens of the Commonwealth of Pennsylvania. See Exhibit "A". Safeco Insurance Company of Illinois (hereinafter "Safeco") is now, and was at the time plaintiffs commenced this action and filed their complaint a corporation organized under the laws of the State of Illinois.

5. Defendant, Safeco, has simultaneously with the filing of this notice, given written notice to the plaintiffs.

6. Defendant, Safeco, is also filing a copy of the instant notice of removal and all attachments thereto with the Prothonotary of the Court of Common Pleas of Lackawanna County.

7. The amount in controversy, upon information and belief, is in excess of Seventy-Five Thousand Dollars (\$75,000) exclusive of interest and costs, in that:

(a). The complaint against Safeco presents two separate causes of action, in separate counts, for Breach of Contract (Count I) and Bad Faith pursuant to 42 Pa. C.S. § 8371 (Count II).

(1). In Count I, plaintiff alleges that Safeco breached the insurance contract by not providing all benefits available for a loss that occurred at plaintiffs' property at 134 Salem Mountain Road, Carbondale, PA on or about February 12, 2017 in the insurance policy and seeks compensatory damages, interest, damages for delay in an amount that exceeds fifty thousand dollars (\$50,000.00). See Exhibit "A", Count I.

(2). In Count II, plaintiffs allege that Safeco acted in bad faith in the handling of their claim and seek relief and penalties under Pennsylvania's insurance bad faith statute at 42 Pa.C.S. §8371 for interest, attorney's fees and punitive damages in excess of fifty thousand dollars (\$50,000.00). See Exhibit "A", Count II.

(b). The amounts of damages sought in the various counts of the complaint may be cumulated in order to ascertain the amount sought. Fine v. State Farm Fire & Casualty Co., 1993 U.S. Dist. LEXIS 7682 (E.D. Pa. 1993).<sup>1</sup>

(c). Punitive damages such as those authorized by 42 Pa.C.S. §8371 are a permissible way to bridge the jurisdictional gap. Bell v. Preferred Life Assurance Society, 320 U.S. 238 (1943).

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<sup>1</sup> Counsel for Safeco inquired with plaintiffs' counsel if plaintiffs were willing to cap damages at \$75,000 to avoid removal of this matter to federal court. Plaintiffs' counsel advised that plaintiffs were not willing to do so as they believe their damages exceeded \$75,000.

8. This notice of removal is being filed within 30 days of the date of service of the plaintiff's complaint.

9. The averments made herein are true and correct with respect to the date upon which suit was commenced, the date upon which the complaint was served, and the date upon which this notice is being filed.

WHEREFORE, Safeco Insurance Company of Illinois hereby remove this suit to this Honorable Court pursuant to the laws of the United States in such cases made and provided.

BENNETT, BRICKLIN & SALTZBURG LLP

BY: *Pamela A. Carlos*  
PAMELA A. CARLOS  
ATTORNEY I.D. NO.56396  
[carlos@bbs-law.com](mailto:carlos@bbs-law.com)  
(215) 561-4300  
Attorney for Defendant,  
Safeco Insurance Company of Illinois

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DIANA OBELKEVICH	:	
	:	
v.	:	<b>NO:</b>
	:	
SAFECO INSURANCE	:	
COMPANY OF ILLINOIS	:	
	:	

**NOTICE**

**TO:**

PLEASE TAKE NOTICE that defendant, Safeco Insurance Company of Illinois, has filed in this Court a verified Notice for Removal of the State Court action, James Obelkevich and Diana Obelkevich v. Safeco Insurance Company of Illinois, now pending in the Court of Common Pleas of Lackawanna County, Pennsylvania, No. 2018-Civil-147.

PLEASE TAKE FURTHER NOTICE that a certified copy of the Notice of Removal will be filed with the Prothonotary of the Court of Common Pleas of Lackawanna County, Pennsylvania.

PLEASE BE ADVISED that by virtue of 28 U.S.C. §1446(f), the State action is now removed to this Court. The State Court has no further jurisdiction over this action and you should proceed no further in that Court or under its authority.

**BENNETT, BRICKLIN & SALTZBURG LLC**

By: Pamela A. Carlos  
PAMELA A. CARLOS, ESQUIRE  
Attorney I.D. No. 56396  
1601 Market Street, 16th Floor  
Philadelphia, PA 19103  
(215) 561-4300  
Attorney for Defendant

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COMPANY OF ILLINOIS	:	
	:	

**PROOF OF FILING**

COMMONWEALTH OF PENNSYLVANIA:

§

COUNTY OF LACKAWANNA :

Pamela A. Carlos, Esquire, being duly sworn according to law, deposes and says that she is an attorney with the law firm of Bennett, Bricklin & Saltzburg, LLC, attorneys for defendant, Safeco Insurance Company of Illinois.

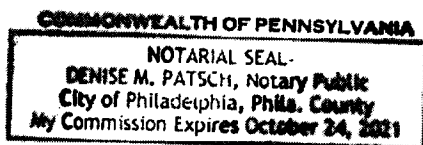
That she did direct the filing with the Prothonotary of the Court of Common Pleas of Lackawanna County a copy of the Notice of Removal, attached hereto, said filing to be made on the 30th day of May, 2018.

**BENNETT, BRICKLIN & SALTZBURG LLC**

By: Pamela A. Carlos  
PAMELA A. CARLOS, ESQUIRE  
Attorney I.D. No. 56396  
1601 Market Street, 16th Floor  
Philadelphia, PA 19103  
(215) 561-4300  
carlos@bbs-law.com  
Attorney for Defendant

Sworn to and subscribed  
before me this 30<sup>th</sup> day  
of May, 2018.  
Denise M. Patsch

NOTARY PUBLIC





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**PROOF OF SERVICE**

COMMONWEALTH OF PENNSYLVANIA:

§

COUNTY OF LACKAWANNA :

Pamela A. Carlos, Esquire, being duly sworn according to law, deposes and says that she is an attorney with the law firm of Bennett, Bricklin & Saltzburg LLC, attorneys for defendant, Safeco Insurance Company of Illinois and that she certifies that a true and correct copy of this Removal Petition was filed electronically and is available for viewing and downloading from the Electronic Case filing system which constitutes service upon the following counsel of record:

Scott E. Schermerhorn, Esquire  
222 Wyoming Avenue  
Scranton, PA 18503

**BENNETT, BRICKLIN & SALTZBURG LLC**

By: Pamela A. Carlos  
PAMELA A. CARLOS, ESQUIRE  
Attorney I.D. No. 56396  
1601 Market Street, 16th Floor  
Philadelphia, PA 19103  
(215) 561-4300  
carlos@bbs-law.com  
Attorney for Defendant

Sworn to and subscribed  
before me this 30<sup>th</sup> day  
of May, 2018.

Alexander J. Patsch

NOTARY PUBLIC

